MotleyRice® LLC
ATTORNEYS AT LAW
www.motleyrice.com
"I will stand for my client's rights. I am a trial lawyer." –Ron Motley (1944–2013)

28 Bridgeside Blvd.
Mt. Pleasant, SC 29464
o. 843.216.9000 f. 843.216.9450

Joseph F. Rice
Licensed in DC, SC
direct: 843.216.9159
jrice@motleyrice.com

May 9, 2017

District Judge Edward M. Chen
San Francisco Courthouse
Courtroom 5 – 17th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Re: Leadership Application of Joseph F. Rice in *In Re: Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices, and Products Liability Litigation*, 17-MD-2777-EMC

Dear Judge Chen:

I write to submit my application for membership on the Plaintiffs' Steering Committee. Pretrial Order No. I, ¶ 5. I am co-founder and Managing Member of Motley Rice LLC, one of the nation's largest, most experienced and well-respected law firms exclusively representing plaintiffs in mass torts and complex litigation. Chrysler-Dodge-Jeep (or "Chrysler") is following in the footsteps of Volkswagen with its EcoDiesel; polluting the air like BP contaminated the Gulf, but here, the polluting well has not been capped. An estimated 100,000 non-compliant EcoDiesel vehicles remain on U.S. roads spewing unsafe levels of emissions into our air. Chrysler consumers and dealers are stuck with vehicles they cannot sell, trade, or in good faith drive. This MDL requires immediate and experienced leadership to provide a timely and fair resolution for all harmed.

(1) Professional experience in this type of litigation, including MDL experience as lead or liaison counsel and/or service of any plaintiffs' committees or subcommittees.

Despite Chrysler's pledge to "contest this lawsuit vigorously"[1] liability in this case will be proven. The appropriate remedies and measure of damages will ultimately be at the crux of the case. My 38 years of law practice have been largely devoted to complex case resolution. Most recently, on January 21, 2016, I was appointed by Judge Charles Breyer to serve on the PSC in the *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*; Case No. 15-MD-02672-CRB-JSC)(N.D.Ca.)(or "VW"). I serve as class counsel for the consumers and served on the leadership team that engaged in intense, round the clock negotiations resulting in the fastest resolution of a consumer class action in MDL history.[2] The complexity of the Volkswagen "Clean Diesel" litigation was unprecedented and involved an array of stakeholders including consumers, dealers, Volkswagen, Bosch, Audi, Porsche, state and federal environmental regulatory agencies, federal law enforcement agencies, including DOJ, EPA, CARB, the FTC, State Attorneys General, the court-appointed Special Master Robert Mueller, and 600,000 class members with differing vehicles and numerous subclasses. On the VW resolution, Judge Breyer noted plaintiffs' "counsel had achieved an extraordinary result for the class and the public as a whole." My experience in the VW matter involving an emission "defeat device," as alleged here, will assist the Court and the parties in resolving this complex case.

---

[1] Michael Wayland, *VW Dieselgate Lawyer to Defend Fiat Chrysler*, Detroit News, Dec. 8, 2016.

[2] As Judge Breyer stated at a hearing in this matter on October 18, 2016, "There is nowhere that you can go in the country that I've gone to in various judicial conferences, and meeting Judges, and so forth, that have not commented on the speed with which this matter has been brought to the Court for the Court's approval." The VW consumer settlement is valued at $14.7B, with the 2.0-liter class at over $10B, the 3.0-liter/dealership settlement totaling $4.26B, and the Bosch settlement at $327.5M. In addition to consumer restitution, VW's equitable relief under the settlement is valued at just under $5B. *See* presentation at the Hearing on Preliminary Approval of the 2.0-liter settlement before Judge Charles Breyer on 7/26/2016 at pp 23-41; and presentation at the Hearing on Preliminary Approval of the 3.0-liter settlement before Judge Charles Breyer on 2/14/2017 at pp 29-54.

I also recently crafted the framework for the $800 million settlement with AMS in *In Re: American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation*, No. 12-MD-2325 (S.D.W.V.) before Judge Joseph R. Goodwin that resolved more than 22,000 TVM claims. I also led and lead settlement negotiations with the other medical device defendants in that mass tort consolidation.

In the automotive context, I serve on the PSC in the *In Re: General Motors LLC Ignition Switch Litigation*, No. 14-MD-02543 (S.D.N.Y.) before Judge Jesse M. Furman. In the liability phase, I took depositions of General Motors' executives, engineers and in-house legal counsel.[3]

In the wake of the BP Oil Spill in 2010, I served as one of two lead negotiators for the Deepwater Horizon Economic and Property Damages Settlement in *In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico*, on April 20, 2010, No. 10-MD-02179 (E.D. La.). I serve on the PSC, and working with the MDL Committee, defense counsel, the Honorable Carl J. Barbier and Magistrate Judge Sally Shushan, negotiated a class action resolution with BP to resolve tens of thousands of business economic loss and property damage claims. Class certification of that settlement was recently affirmed by the 5th Circuit.[4] The value of the BP settlement exceeds $10 billion.[5]

In 9/11, I led the mediations and settlements of fifty-six plaintiffs who opted out of the Feinberg VCF Fund to litigate against the airlines for negligent security measures. In resolving these 9/11 aviation security cases, Judge Alvin Hellerstein noted: "the high quality and substantial extent of the Motley Rice firm's work."[6] Special Master Kenneth Feinberg praised the efforts of my firm in the 9/11 VCF, thusly: "The professionalism and skill of the Motley firm in this case, and numerous other claims, has made my job as Special Master much easier, and has made the Fund work a great deal more efficiently and effectively. The American people and the Fund are in Mr. Motley's debt, as well as those of his colleagues, for a superb job well done."[7]

I initially earned national recognition for my work on behalf of sickened asbestos workers in the 1980s, where I fashioned some of the first successful mass tort settlements with the asbestos industry. I have leadership experience on numerous asbestos bankruptcy trust committees. Over the last 10 years, I have served as chair or co-chair of the Asbestos Negotiating Committee in Chapter 11 Bankruptcy reorganizations involving former asbestos manufacturing defendants including AWI, Federal Mogul, Pittsburg Corning, WR Grace and others.

In tobacco, I led the resolution of 26 states' Attorneys General landmark litigation to recoup healthcare funds and exact marketing restrictions from cigarette manufacturers. I was the lead private negotiator for the State Attorneys General and one of the architects of the $246 billion 1998 Tobacco Master Settlement Agreement that was accepted by all States, the largest civil settlement in U.S. history. I received the National Association of Attorneys General President's Award for my work with all of the State AGs, where I built lasting professional relationships that endure to this day.[8]

(2) The names and contact information or judges before whom the applicant has appeared in the matters discussed in response to No. 1 above.

The contact information for the jurists requested above are provided in my attached Resume.

(3) Experience with class action or mass litigation involving injunctions as well as monetary relief.

I dealt extensively with injunctive relief in the tobacco settlement where, in addition to restitution, the Attorneys General sought to unmask tobacco industry misconduct and stop the targeting of youth by big tobacco. In 9/11, I negotiated legacy issues important to the families beyond monetary relief. In securities fraud and shareholder derivative suits, I have sought and secured changes to corporate governance above and beyond purely monetary awards. In mass torts involving a continuing environmental harm like this one, injunctive issues arise that require the court and counsels' close attention. In VW, injunctive relief and remedies included funds devoted to support zero emissions technology, and environmental remediation funds and provisions to negate excess emissions.

(4) Willingness and ability to immediately commit to time-consuming litigation.

---

[3] My firm's MDL automotive experience also includes: *In Re: Takata Airbag Products Liability Litigation*, No. 15-MD-02599 (S.D. Fla.)(Federico A. Moreno) (discovery subcommittee) and *In Re: Bridgestone/Firestone, Inc., ATX, ATX II and Wilderness Tires Products Liability Litigation*, No. 00-MD-01373 (S.D. Ind.)(Sarah E. Barker) (personal jurisdiction over Bridgestone of Japan, subcommittee lead). Motley Rice has the requisite technical and legal experience in vehicle defect cases, and extensive experience in litigation against non-U.S.-based entities.

[4] *In Re: Deepwater Horizon-Appeals of the Econ. & Prop. Damage Class Action Settlement*, 756 F.3d 320 (5th Cir. 2014).

[5] *See* Hearing on Conditional Certification of Rule 23(B)(3) Classes for Settlement Purposes, 4/25/2012 at pp 17-57, (Judge C. Barbier).

[6] *In Re: September 11 Litigation*, No. 21-MC-97(AKH) (S.D.N.Y., Aug. 9, 2007), Dkt. #1175, Order Concerning Settlement and Fees.

[7] September 11th Victims Compensation Fund Hearing, Mar. 25, 2004.

[8] *See* http://amlawdaily.typepad.com/files/smokin-joe.pdf; http://www.nytimes.com/1998/12/22/business/spoils-tobacco-wars-big-settlement-puts-many-lawyers-path-windfall.html.

I commit to the Court and to counsel that I am willing and able to dedicate the time necessary to effectively and efficiently ensure the prompt, full and fair resolution of this matter. I bring to this case relevant experience in the complex case resolution in mass tort, class action, vehicle defect, product liability, consumer protection, consumer fraud, environmental disaster, civil RICO, bankruptcy, and environmental contamination cases; I fully appreciate the time commitment necessary in MDL leadership.

(5) Willingness and ability to work cooperatively with other plaintiffs' counsel and defense counsel.

Motley Rice grew out of a business model that centers on working efficiently with law firms from all geographical areas of the nation and the world. I have a proven track record of working cooperatively with both plaintiffs' and defense counsel, federal and state law enforcement, claims administrators, Attorneys General, Special Masters or Magistrates, mediators, and the Courts. In the process, I am proud to have built strong relationships with counsel on both sides of the table in both the national and international realm. In this case, I filed suit against Fiat Chrysler and Bosch with eight sets of co-counsel from across the U.S. I have experience dealing with parallel civil and criminal investigations and the corresponding federal agencies in VW, GM, BP, 9/11, tobacco and asbestos.

(6) Access to resources to prosecute the litigation in a timely manner.

Motley Rice brings extensive discovery, jury trial, and case resolution experience necessary to prosecute, resolve or try complex mass tort cases that often run on parallel tracks. My firm's primary mission is to represent plaintiffs seeking justice in the face of national and international corporations engaged in negligence, fraud, and cover-up that threaten to adversely impact public health and safety. I bring my own personal commitment, knowledge and resources, and with it over 85 Motley Rice attorneys experienced in complex mass tort practice and 250 experienced litigation support staff. I commit those resources to this case.

(7) Willingness to serve as co-lead counsel, a member of the steering committee, or both.

I am applying to serve on the Plaintiffs' Steering Committee.

(8) The particular category or categories of plaintiffs the applicant wants to specifically represent (vehicle owners, lessees, dealerships or all plaintiffs, etc.

I am willing and able to represent all plaintiffs. My current clients are Chrysler consumers.

(9) Any other considerations that qualify counsel for a leadership position.

I have and will devote considerable time, effort, expense and thought into the issues raised by this case. I am honored to have been identified by Professor Samuel Issacharoff of the New York University School of Law, as "the best strategic thinker on the end stages of litigation that I've ever seen."[9] I was described by Corporate Legal Times as one of the nations "five most respected (and feared) plaintiffs' attorneys" in America.[10] Based on a poll of defense counsel and legal scholars, I was cited as one of the toughest, sharpest and hardest working litigators they have faced. As the article notes, "[f]or all his talents as a shrewd negotiator…Rice has earned most of his respect from playing fair and remaining humble."[11] The American Lawyer called me "one of the shrewdest businessmen practicing law."[12] If appointed, I commit to the Court, I will fight for full, fair and timely remedies and compensation for those harmed by Chrysler's misconduct.

(10) Recommendations as to the size and structure of the steering committee, including consideration of diversity.

I recommend the Court appoint a steering committee of counsel with a proven track record and the ability to work efficiently together and adequately fund the litigation. I am certain the Court will have applications from a number of respected and fitting candidates. Based on my experience and my understanding of this case, I support the following applications for lead and/or the PSC: Benjamin Bailey, Steve Berman, Elizabeth Cabraser, Jim Cecchi, Rachel Jensen, Lynn Sarko, Chris Seeger, Roland Tellis, and Lesley Weaver.

I thank the Court in advance for its time and consideration.

Respectfully Submitted,

Joseph F. Rice

---

9 Susan Beck, "How BP Decided to Fight the Deepwater Settlement," *The American Lawyer*, Mar. 5, 2014.

10 Sheryl Fred, "The Best of the Bad," *Corporate Legal Times*, Volume 14, No. 147, Feb. 2004.

11 *Id.*

12 Alison Frankel, "Who Killed the Mass Torts Bonanza?," *The American Lawyer*, Dec. 12, 2006.